

**FILED**

AUG 1 1 1997

SECRETARY, BOARD OF  
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

---oo0oo---

IN THE MATTER OF THE	:	NOTICE OF AGENCY ACTION
PETITION FILED BY THE	:	
DIVISION OF OIL, GAS AND MINING	:	
FOR AN ORDER REQUIRING	:	DOCKET NO. 97-016
IMMEDIATE RECLAMATION OF THE	:	CAUSE NO. M/003/031
GROUSE CREEK QUARRY FROM	:	
UTAH BUILDING STONE SUPPLY,	:	
BOX ELDER COUNTY, UTAH.	:	

---oo0oo---

The Division of Oil, Gas and Mining ("the Division"), hereby petitions the Board of Oil, Gas and Mining, for an Order directing the operator of the Grouse Creek Quarry to immediately begin reclamation of site which is located in portions of Sections 2, 3, 4, 10, and 11, Township 12 North Range 17 West; and Sections 34 and 35, Township 13 North, Range 17 West, Salt Lake Base Meridian, Box Elder County, Utah. The mine operator and owner William Bown, who is doing business as Utah Building Stone Supply ("UBSS").

**JURISDICTION**

1. This action is brought by the Division pursuant to Utah Code Annotated § 40-8-7 (1953, as amended).
2. Jurisdiction over this matter is conferred upon the Board of Oil, Gas and Mining ("Board") by Utah Code Annotated § 40-8-6 (1953, as amended).

### **NOTICE REQUIREMENTS**

3. Pursuant to Sections 63-46b-6 to 63-46b-11 of Utah Code Annotated (1953, as amended), the hearing will be conducted formally.

4. The hearing will be held on September 24, 1997 at 10.00 a.m. Any party who fails to appear at said hearing may be held in default.

5. The names and addresses of all persons to whom Notice of Agency Action shall be given are attached as EXHIBIT "1" and by this reference incorporated herein. All other exhibits will be provided at a later date.

### **STATEMENT OF THE CASE**

UBSS had operated a large mining operation ("LMO") without approval of its Notice of Intention as required by Utah Code Ann. § 40-8-13 and R647-4-101. Earlier, Division action resulted in the suspension of mining activity at the site. However, during its illegal operation the mine disturbed significant acreage. UBSS has failed to comply with Utah Code Ann. § 40-8-12.5 and reclaim those disturbances. The Division ordered that the UBSS reclaim the unpermitted disturbances. UBSS has failed to meet the deadline established by the Division to reclaim the unpermitted disturbances.

### **STATEMENT OF THE FACTS**

1. On February 17, 1995, the Division receives a copy of the Notice to Conduct Mining Operations from the Bureau of Land Management ("BLM") that identifies 11.6 acres

of existing and proposed disturbance. The Division requests information necessary to permit as an LMO. (EXHIBIT A (chronology for facts 1-25))

2. On July 6, 1995, the Division conducts a joint site inspection with the BLM and the operator. The parties schedule a July 20, 1995 meeting to discuss plans and maps. The Bowns agree to reclaim 2.8 acres by October 31, 1995 to reduce liability.

3. On July 20, 1995, the joint meeting is held in the Division's offices. A map is prepared showing 11.53 acres of current and proposed disturbance. The Bowns agree to submit an LMO Notice of Intention by September 5, 1995.

4. On November 6, 1995, the Division issues a Notice of Non-Compliance to the Bowns for its failure to file a Notice of Intention to commence an LMO, as required by the Utah Mined Landed Reclamation Act, Title 40-8-13(1) et seq. and the Minerals Reclamation Program Rules R647-1 through R647-5.

5. On November 27, 1995, The Bown's Notice of Intention to Conduct an LMO is submitted to the Division. The notice listed the equipment to be used in the operation as including "six wheel drive and four wheel drive shuttle trucks, track excavator, D-8 dozer, 18 wheeler w/trailer, 10 wheel dump truck, 933 front loader." (EXHIBIT B)

6. On December 11, 1995, the operator met with the Division indicating that they had found a surety company to post the required bond. Bonding forms were given to the operator at this time.

7. On December 20, 1995, the Division sends the Bowns a letter outlining status of the non-compliance. The operator is given sixty days to post an interim \$25,000 reclamation

surety bond which is due February 26, 1996.

8. On January 30, 1996, the initial LMO review comments are sent to the operator.

9. On February 7, 1996, the Division receives a letter from the Bowns protesting the amount of the disturbed area (acreage) identified as being associated with this project.

10. On February 14, 1996, the Division, BLM, and the Bowns meet at the Division to discuss plan review and the February 7, 1996 letter. The Division agrees to re-evaluate roads later in the year when site is accessible and to suspend further action on the Notice of Non-Compliance until the road issue is resolved.

11. On June 5, 1996, a joint Division and BLM site inspection is conducted to resolve the road issue. During the inspection 8.73 acres of existing road is identified as mine access for which the operator has reclamation responsibility. The Bowns re-evaluate the existing roads and identify sufficient sections that could be reclaimed and still allow them access to the quarry areas. Reclaimed roads would reduce the acreage to 4.8 acres (4.31 acres to be reclaimed).

12. On June 18, 1996, the Division sends a letter to the operator establishing a July 31, 1996 deadline to perform the reclamation of the 4.31 acres, or post a revised \$6,500 interim surety amount to mitigate the November 6, 1995 Notice of Non-Compliance. Revised color-coded topographic map is attached showing and labeling all roads discussed during the June 5, 1996 inspection. The operator is reminded that the Grouse Creek Quarry would be in non-compliance until the operator reclaimed to five or less acres, or permitted

and bonded as an LMO. The Division requested a written response of operator's preferred intentions by July 1, 1996.

13. On July 25, 1996, William Bown calls the Division requesting a couple of additional days to perform the required reclamation of the 4.31 acres. He also indicates that they are not in a position to post the interim reclamation surety.

14. On August 6, 1996, a site inspection conducted by the Division concludes that no reclamation has occurred through efforts of the Bowns. However, approximately 0.67 acres has been reclaimed through natural processes. This leaves 8.04 acres of disturbance.

15. On August 13, 16, 19, 22, 26 and September 3, 1996 the Division makes repeated calls to the Bowns. Messages are left on the Bown's answering machine instructing them to contact the Division.

16. On September 3, 1996, after sending a fax message to contact the Division, the operator calls and states that they have arranged to have their bulldozer transported to the Grouse Creek Quarry area during the week of September 16, 1996. Once it is there, it would only take a day or two to complete the required reclamation.

17. On September 23, 1996, the Division conducts a site inspection and finds that no reclamation work has been performed. Operator indicates that the bulldozer is in the shop for repairs and would be delivered to the site by the end of the week.

18. On September 30, 1996, the operator calls the Division indicating that the bulldozer was ready to go and that the reclamation would be completed by the end of the week. Operator advised to call the Division as soon as the work is completed.

19. On October 21, 1996, the Division attempts to contact operator by phone to discuss the status of reclamation work. The Division is unable to reach the operator.

20. On October 23, 1996, the Division conducts a site inspection which shows that no reclamation work had been performed at the site. Additionally, the bulldozer is not observed at the site.

21. On November 14, 1996, a site inspection conducted by the BLM shows that no reclamation work has been performed and that no equipment exists on-site.

22. On January 21, 1997, the Division issues a Notice of Agency Action to Enforce Violated Mineral Rules. The violated mineral rules include R647-3-113 (enlargement of small mine to large mine acreage without approved Notice of Intention), R647-4-101, (requirement that a Notice of Intention must be approved by the Division before mining operations begin) and R647-4-107.6 (requirement for concurrent reclamation). UBSS directed to suspend all mining activities until an LMO Notice of Intention is approved.

23. On January 21, 1997, the Division receives the first annual report submitted for this site.

24. On February 3, 1997, the Division receives a written appeal of the Notice of Agency Action from the operator.

25. On February 12, 1997, the Division sends a letter formally notifying operator of the scheduled February 27, 1997, informal hearing date. A previous telephone contact with the operator confirmed the acceptability of the proposed hearing date.

26. On February 27, 1997, the informal hearing is held at the Division.

(EXHIBIT C)

27. On March 25, 1997, the Division Director, Jim Carter rules against UBSS, represented by the Bowns. (EXHIBIT C)

28. On April 1, 1997, UBSS appeals the March 25, ruling. (EXHIBIT D)

29. On April 18, 1997, the Division responds to the appeal. (EXHIBIT E)

30. On May 12, 1997, the UBSS withdrew its appeal of the ruling. (EXHIBIT F)

31. On May 22, 1997, the Division and UBSS agree on the acreage to be reclaimed.

(EXHIBIT G)

32. On June 24, 1997, the Division sends UBSS a timetable to conduct reclamation of the unpermitted disturbances. (EXHIBIT H)

33. On July 28, 1997, UBSS sends letter which states their inability to meet the established deadline. (EXHIBIT I)

### COUNT I

34. The Division incorporates by reference paragraphs 1 through 31 as stated above.

35. The operator of record, UBSS has failed to reclaim as required by Utah Code Ann. § 40-8-12.5 and R647-4-114.

### COUNT II

36. The Division incorporates by reference paragraphs 1 through 31 as stated above.

37. The operator of record, UBSS has failed to post a surety for the disturbed acres as required by Utah Code Ann. § 40-8-14 and R647-4-113.

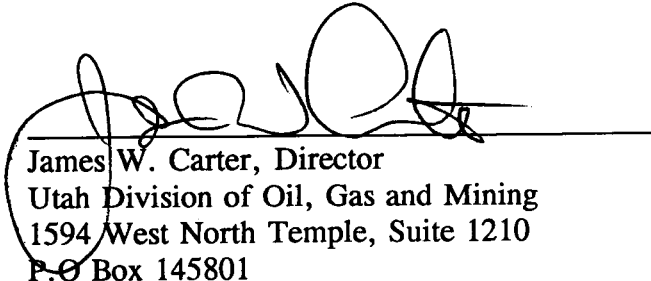
**PRAYER FOR RELIEF**

WHEREFORE, The Division requests that the Board enter the following order:

A. Issue a Board Order, with appropriate time frames, requiring Utah Building Stone Supply to commence reclamation of its mining-related disturbances associated with the Grouse Creek Quarry. The reclamation shall satisfy the requirements of R647-4-111 and all other requirements arising under state or federal law.

B. In the event that Utah Building Stone Supply should fail to meet the Board's deadline, issue an order authorizing the reclamation of the site by the Division, and pursuant to R647-4-114 authorizing a civil action brought by the attorney general against Utah Building Stone Supply to recover the costs and expenses of reclamation, and the costs of collection, including attorney's fees.

REQUESTED this 11<sup>th</sup> day of August, 1997.



James W. Carter, Director  
Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801  
Telephone: (801) 538-5340



**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF AGENCY ACTION for Docket No. 97-016, Cause No. M/003/031 to be mailed by certified mail, postage prepaid, this 11th day of August, 1997, to the following:

William Bown  
Utah Building Stone Supply  
842 West 400 North  
West Bountiful, Utah 84087

Preston Bown  
Utah Building Stone Supply  
842 West 400 North  
West Bountiful, Utah 84087

Mike Ford  
Bureau of Land Management  
Salt Lake District Office  
2370 South 2300 West  
Salt Lake City, Utah

John Blake  
School and Institutional  
Trust Lands Administration  
675 East 500 South, Suite 500  
Salt Lake City, Utah 84102

**Sent by Hand Delivery to:**

Patrick J. O'Hara  
Assistant Attorney General  
1594 West North Temple, Suite 300  
P.O. Box 140855  
Salt Lake City, UT 84114-0855

Daniel G. Moquin  
Assistant Attorney General  
1594 West North Temple, Suite 300  
P.O. Box 140855  
Salt Lake City, UT 84114-0855

**Courtesy Copy to:**

Lynn Kunzler, Senior Reclamation Specialist  
Division of Oil, Gas & Mining

  
\_\_\_\_\_